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Attorneys for Plaintiff  
KAREN GOLINSKI

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

KAREN GOLINSKI,

Plaintiff,

v.

UNITED STATES OFFICE OF PERSONNEL  
MANAGEMENT, and JOHN BERRY, Director  
of the United States Office of Personnel  
Management, in his official capacity,

Defendants.

Case No. 3:10-cv-0257-JSW

**PLAINTIFF KAREN GOLINSKI'S  
RESPONSE TO BIPARTISAN  
LEGAL ADVISORY GROUP'S  
MOTION FOR LEAVE TO FILE  
SUPERSEDING OPPOSITION TO  
PLAINTIFF'S SUMMARY  
JUDGMENT MOTION, AND  
REQUEST FOR ANY NEW  
HEARING DATE TO BE SET FOR  
DECEMBER 16, 2011 OR EARLIER**

1 Plaintiff Karen Golinski respectfully submits the following response to Intervenor  
2 Bipartisan Legal Advisory Group's ("BLAG's") motion for leave to submit further briefing.  
3 Plaintiff submits this response in order to propose measures to minimize the delay caused by  
4 BLAG's belated request.

5 On Friday, September 23, 2011, BLAG informed plaintiff that it proposed to submit a  
6 superseding opposition brief on October 10, 2011. (Borelli Decl. ¶ 4, Ex. A.) That proposal  
7 came at the eleventh hour. (Borelli Decl. ¶ 5.) Plaintiff's motion for summary judgment was  
8 originally noticed for September 16, 2011, and is set to be heard on October 21, 2011. Plaintiff  
9 originally filed her motion on July 1, 2011. BLAG has had that brief for over three months.

10 BLAG makes much of the parties' exchange of written discovery. However, BLAG has  
11 had plaintiff's discovery responses since September 1, 2011. (Borelli Decl. ¶ 3.) Moreover,  
12 plaintiff suspects that the materials that BLAG plans to introduce in its opposition brief are not  
13 from that discovery, which principally concerned plaintiff's standing to bring this action and the  
14 validity of her marriage. Instead, based on a review of BLAG's summary judgment opposition  
15 papers filed in *Windsor v. United States*, No. 1:10-cv-08435-BSJ-JCF (S.D.N.Y.) and *Pedersen*  
16 *v. Office of Personnel Management*, No. 3:10-cv-01750-VLB (D. Conn.), plaintiff suspects that  
17 the principal new evidence that BLAG plans to introduce here is the deposition testimony of  
18 plaintiff's experts. (Borelli Decl. ¶ 5.) Those depositions were taken in **June** and **July**, prior to  
19 the due date of BLAG's existing opposition brief. (*Id.*) Discovery in *Windsor* closed on July  
20 11, 2011. (*See* Dkt. 121, Ex. B (attaching *Windsor* scheduling order).) BLAG has no legitimate  
21 reason to have delayed its submission for **three months** to incorporate those materials.

22 Nonetheless, in order to permit a full airing of the issues, plaintiff informed BLAG that  
23 she was willing to accede to BLAG's belated filing of a new brief, provided that plaintiff has a  
24 fair opportunity to respond and that the hearing date for all pending dispositive motions would  
25 be moved appropriately. (Borelli Decl. ¶ 6, Ex. B.) Because one of plaintiff's experts is out of  
26 the country until October 20, 2011, and that expert may be needed to provide rebuttal testimony,  
27 plaintiff stated that she would need until November 1, 2011 to file her reply brief, if BLAG files  
28 its new opposition brief on October 11, 2011. Although this briefing schedule creates a

1 significant disparity, as BLAG will have had plaintiff's brief for over three months, while  
2 plaintiff will have only three weeks to reply, plaintiff is willing to tolerate that disparity in order  
3 to move this matter promptly to resolution. (*Id.*) BLAG agreed to that proposal, but when the  
4 parties disagreed as to the form of the filing BLAG changed its position, indicating that it would  
5 only move for leave to file its superseding brief without proposing the parties' agreed briefing  
6 dates. (Borelli Decl. ¶¶ 7-14, Exs. C-J.)

7 Plaintiff is anxious to have this matter proceed to a merits determination. Her spouse  
8 remains underinsured and continues to forgo preventive care. This case was filed almost two  
9 years ago, in January 2010. The operative complaint has been on file for six months, since  
10 April 2011. In order to permit the case to move forward, plaintiff respectfully requests that:  
11 (1) BLAG's new opposition brief be due on October 11, 2011, and plaintiff's reply brief be due  
12 on November 1, 2011, as the parties had agreed, and (2) that the hearing currently set for  
13 October 21, 2011, on the motions to dismiss and plaintiff's motion for summary judgment be  
14 continued to a date on or before December 16, 2011 (currently shown as the earliest available  
15 open date on the Court's calendar for cases with a terminal digit of 7).

16 Dated: September 30, 2011

MORRISON & FOERSTER LLP

17 LAMBDA LEGAL DEFENSE AND  
18 EDUCATION FUND, INC.

19 By: /s/ Tara Borelli  
20 Tara Borelli

21 Attorneys for Plaintiff  
22 KAREN GOLINSKI  
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